

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MASSACHUSETTS DEVELOPMENT FINANCE AGENCY,)

Plaintiff)

v.)

ADP MARSHALL, INC., a FLUOR DANIEL COMPANY, and)
FIREMAN'S FUND INSURANCE COMPANY,)

Defendants)

) CIVIL ACTION

) NO. 04-CV-10203-PBS

ADP MARSHALL, INC.,)

Plaintiff-in-Counterclaim,)

v.)

MASSACHUSETTS DEVELOPMENT FINANCE AGENCY,)

Defendant-in-Counterclaim)

ADP MARSHALL, INC.,)

Third-Party Plaintiff)

v.)

ALLIED CONSULTING ENGINEERING SERVICES, INC.,)
ANDOVER CONTROLS CORPORATION, R&R WINDOW)
CONTRACTORS, INC. and DELTA KEYSpan, INC. n/k/a)
DELTA KEYSpan, LLC,)

Third-Party Defendants)

**OBJECTIONS OF THE THIRD-PARTY DEFENDANT, ALLIED CONSULTING
ENGINEERING SERVICES, INC., TO THE THIRD PARTY PLAINTIFF'S
WITNESS AND EXHIBIT LISTS**

Pursuant to this Court's Order of April 11, 2005, the third-party defendant, Allied Consulting Engineering Services, Inc. ("Allied"), files the following objections to the Witness and Exhibit lists of the Third-Party Plaintiff, ADP Marshall, Inc.

Objections to Witnesses

Allied objects to the proposed testimony of Robert Greetham, Brian Metcalf and Tom Hughes pursuant to Fed. R. Civ. P. 26(a)(2)(A) and Fed. R. Evid. 403, to the extent that such testimony may characterize, evaluate, or amplify the findings contained in the HVAC report of Richard Comeau (the "Comeau Report"). These witnesses have not been disclosed as experts and, therefore, cannot offer opinion testimony. Moreover, such testimony would only serve to bolster the Comeau Report, which would unfairly prejudice Allied and cause undue delay through needless presentation of cumulative evidence. Allied further objects to the proposed testimony regarding Allied's contractual obligations to Marshall. Marshall and Allied have both identified the Marshall/Allied contract as an exhibit, which speaks for itself. As such, the introduction of such testimony would again be cumulative, and only serve to confuse the jury.

Objections to Proposed Exhibits

Allied fully reserves its rights to object to the following exhibits, many of which Allied has neither seen nor had the opportunity to authenticate, and which Allied cannot conclusively identify based on Marshall's description:

Expected Exhibits

Exhibit 6

Exhibit 7

Exhibit 10

Exhibit 11

Exhibit 14

Exhibit 17

Exhibit 18

Exhibit 21

Exhibit 22

Exhibit 23

Exhibit 24

Exhibit 26

Exhibit 27

Exhibit 28

Exhibit 31

Exhibit 32

Exhibit 33

Exhibit 34

Exhibit 38

Exhibit 39

Exhibit 40

Possible Exhibits

Exhibit 2

Exhibit 3

Respectfully submitted,

ALLIED CONSULTING ENGINEERING
SERVICES, INC.

By its Attorneys

/s/ Jay S. Gregory

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Dated: July 8, 2005

CERTIFICATE OF SERVICE

I, Jay S. Gregory, Esquire, hereby certify that on this 8th day of July, 2005, the foregoing was served by first class U.S. mail to:

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